

LEGISLATIVE BILL 1196

Approved by the Governor March 24, 1972

Introduced by Wally Barnett, Jr., 26th District

AN ACT to amend sections 39-741, 60-301, 60-401, 60-501, 60-2102, 60-2103, and 60-2105, Revised Statutes Supplement, 1971, relating to motor vehicles; to redefine terms; to provide for the regulation and licensing of minibikes as prescribed; to provide for violations and penalties; to provide for rules and regulations; to repeal the original sections, and also section 60-2101, Revised Statutes Supplement, 1971; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. That section 39-741, Revised Statutes Supplement, 1971, be amended to read as follows:

39-741. As used in Chapter 39, article 7, unless the context otherwise requires:

(1) Alley shall mean a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic;

(2) Arterial street shall mean any United States or State numbered route, controlled access highway, or other major radial or circumferential street or highway designated by local authorities within their local authorities within their respective jurisdictions as part of a major arterial system of streets or highways;

(3) Authorized emergency vehicle shall mean such fire department vehicles, police vehicles and ambulances as are publicly owned, and such other publicly or privately-owned vehicles as are designated by the director;

(4) Bicycle shall mean every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than fourteen inches in diameter;

(5) Bus shall mean every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation

of persons for compensation;

(6) Business district shall mean the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway;

(7) Cabin trailer shall mean any rigid vehicle without motive power designed for towing behind a motor vehicle and designed for living quarters of which there shall be three classes:

(a) Travel trailer which shall include cabin trailers not more than eight feet in width, not more than thirty-five feet in length from front hitch to rear bumper, less than six thousand pounds manufacturers' weight, and may be used for occasional and temporary living quarters;

(b) Mobile home which shall include cabin trailers more than seven and one half feet wide, more than thirty feet long, and may be used as a residential dwelling; and

(c) Camping trailer which shall include cabin trailers less than seven and one half feet wide, adjusted mechanically smaller for towing and may be used as a temporary dwelling;

(8) Cancellation of operator's license shall mean the annulment or termination by formal action of the department of a person's license because of some error or defect in the license or because the licensee is no longer entitled to such license, but the cancellation of a license shall be without prejudice and application for a new license may be made at any time after such cancellation;

(9) Controlled access highway shall mean every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway;

(10) Crosswalk shall mean:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edge of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(11) Dealer shall mean every person engaged in the business of buying, selling or exchanging vehicles who has an established place of business for such purpose in this state, and to whom current dealer registration plates have been issued by the department;

(12) Department shall mean the Department of Motor Vehicles;

(13) Director shall mean the Director of Motor Vehicles;

(14) Farm tractor shall mean every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry;

(15) Final conviction shall mean the final determination of all questions of fact and of law;

(16) Highway shall mean the entire width between the boundary limits of every way publicly-maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(17) Intersection shall mean:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if there are no lateral curb lines, then the lateral boundary lines of the roadways of two highways, which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or

(c) The junction of an alley with a street or highway shall not constitute an intersection;

(18) License or license to operate a motor vehicle shall mean any operator's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state;

(19) Lienholder shall mean a person holding a security;

(20) Local authorities shall mean every county, municipal, and other local board or body having authority to enact laws or regulations relating to traffic under the Constitution and laws of this state;

(21) Mail shall mean to deposit in the United States mail properly addressed and with postage prepaid;

(22) Motor vehicle shall mean every self-propelled vehicle; ~~except a minibike, minicycle, trail-bike or similar off-road vehicle which may be used on roads only on those occasions specifically set out in sections 60-2402 and 60-2404 and at which times all laws regarding equipment for motor vehicles and operators shall not apply;~~

(23) Motorcycle shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor; ~~except a minibike, minicycle, trail-bike or similar off-road vehicle which may be used on roads only on those occasions specifically set out in sections 60-2402 and 60-2404 and at which times all laws regarding equipment for motor vehicles and operators shall not apply and a minibike as defined in section 5 of this act;~~

(24) Official traffic control devices shall mean all signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic;

(25) Operator shall mean every person who drives or is in actual physical control of a vehicle;

(26) Operator's license shall mean any license to operate a motor vehicle issued under the laws of this state;

(27) Owner shall mean a person other than a lienholder, having the property in or title to a vehicle.

The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security;

(28) Park or parking shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

(29) Pedestrian shall mean any person afoot;

(30) Person shall mean every natural person, firm, copartnership, association or corporation;

(31) Pneumatic tire shall mean every tire in which compressed air is designed to support the load;

(32) Police officer shall mean every officer authorized to direct or regulate traffic or to make arrests for violation of traffic regulations;

(33) Private road or driveway shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons;

(34) Railroad shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(35) Railroad sign or signal shall mean any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(36) Residence district shall mean the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business;

(37) Revocation of operator's license shall mean the termination by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in the statute providing for revocation;

(38) Right-of-way shall mean the privilege of the immediate use of the highway by one vehicle or pedestrian over another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other;

(39) Roadway shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term roadway shall refer to any such roadway separately but not to all such roadways collectively;

(40) Safety zone shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

(41) School bus shall mean every motor vehicle that complies with the color and identification requirements as provided in the laws of this state and is used to transport children to or from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children;

(42) Security agreement shall mean a written agreement which reserves or creates a security interest;

(43) Security interest shall mean an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is perfected when it is valid against third parties generally, subject only to specific statutory exceptions;

(44) Sidewalk shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians;

(45) Solid tire shall mean every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;

(46) Stand or standing shall mean the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers;

(47) Stop, when required, shall mean a complete cessation from movement;

(48) Stop or stopping, when prohibited, shall mean any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal;

(49) Street shall mean the entire width between boundary lines of every way publicly-maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(50) Suspension of operator's license shall mean the temporary withdrawal by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department;

(51) Through highway shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device, when such signs or devices are erected as provided by law;

(52) Traffic control signal shall mean any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed;

(53) Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; and

(54) Urban district shall mean the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.

Sec. 2. That section 60-301, Revised Statutes Supplement, 1971, be amended to read as follows:

60-301. As used in sections 60-301 to 60-344, unless the context otherwise requires:

(1) Motor vehicles shall include motorcycles and all vehicles propelled by any power other than muscular power, except farm tractors, farm tractors used occasionally outside of general farm usage, road rollers, any vehicles which run only on rails or tracks, off-road designed vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles, and snowmobiles, and road and general purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditch-digging apparatus, well-boring apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, crawler tractors, backhoes, bulldozers and front-end loaders; ~~7 minibikes or motorcycles propelled by an engine having five or less than five horsepower rated capacity or less than thirty inches from ground seat height, and off-road designed vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles and snowmobiles;~~

(2) Highways shall include public streets, roads, turnpikes, parks, parkways, drives, alleys, and other public ways used for the passage of road vehicles;

(3) Trucks shall include motor vehicles equipped or used to carry anything other than passengers;

(4) Trailer shall include every vehicle without motor power carrying persons or property and being pulled by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(5) Semitrailer shall mean every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle;

(6) Cabin trailer shall mean every vehicle without motive power designed for living quarters and for being drawn by a motor vehicle;

(7) Truck-tractor shall mean every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn;

(8) Owner shall mean a person, firm or corporation who holds a legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase

upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event while a vehicle is subject to a lease of thirty days or more with an immediate right of possession vested in the lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of sections 60-301 to 60-344;

(9) Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks, ~~minibikes--or--motorcycles--propelled--by--an engine--having--five--or--less--than--five--horsepower--rated capacity--or--less--than--thirty--inches--from--ground--seat height,~~ and off-road designed vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles, and snowmobiles;

(10) Fleet shall include only those commercial vehicles which actually travel a portion of their total miles in the state. A fleet must include three or more commercial vehicles of which at least two must be powered units;

(11) Transporter shall mean every person lawfully engaged in the business of transporting vehicles, not his own, by driving singly, or in combinations by the towbar, fullmount or saddle mount methods or any combinations thereof, or where a truck or tractor draws a semitrailer or tows a trailer, solely for delivery thereof;

(12) Self-propelled mobile home shall mean a vehicle with motive power designed for living quarters;

(13) Total fleet miles shall mean the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during such year;

(14) In-state fleet miles shall mean total miles operated (a) in the State of Nebraska by all or any part of the fleet of an owner or operator who is deemed to be eligible for proportional registration in Nebraska, and (b) in noncontracting reciprocity states by vehicles based in Nebraska; and

(15) Farm trailer shall include any trailer or semitrailer used wholly and exclusively to carry a farmer's or rancher's own supplies, farm equipment and household goods to or from the owner's farm or ranch, or

used by the farmer or rancher to carry his own agricultural products, livestock and produce to or from storage and market, and attached to a passenger car or farm licensed vehicle.

Sec. 3. That section 60-401, Revised Statutes Supplement, 1971, be amended to read as follows:

60-401. The following words and phrases, when used in sections 60-401 to 60-440, shall, for the purposes of said sections, have meanings respectively ascribed to them as follows: (1) Motor vehicle includes all vehicles propelled by any power other than muscular power, except self-propelled invalid chairs, farm tractors, farm tractors used occasionally outside of general farm usage, road rollers, and any vehicles which run only on rails or tracks, ~~and except minibikes, minicycles, or similar type vehicles propelled by an engine having five or less than five horsepower rated capacity or less than thirty inches from ground seat height;~~ and all off-road vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles, and snowmobiles; (2) person includes every natural person, firm, partnership, association, or corporation; (3) operator includes every person who is in the actual physical control of a motor vehicle upon a highway; (4) owner includes a person who holds legal title to a motor vehicle, a mortgagor entitled to the possession of a vehicle, or the conditional vendee or lessee of a vehicle which is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee; (5) nonresident includes every person who is not a resident of this state; (6) street or highway includes the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right or easement, for purposes of vehicular traffic; (7) the director shall be the Director of Motor Vehicles of the State of Nebraska; (8) superintendent means the superintendent of law enforcement and public safety, who may be known and designated as State Sheriff, appointed by and responsible to the Governor, who is charged with the administration and enforcement of the laws pertaining to the Nebraska State Patrol and, under the direction of the Governor, is further charged with the duty and responsibility of enforcing the laws of the state relating to felonies as provided in section 84-106 and with the enforcement of laws pertaining to criminal investigation, criminal identification, and radio communications; and (9) the

term this act shall be construed as referring exclusively to sections 60-401 to 60-440.

Sec. 4. That section 60-501, Revised Statutes Supplement, 1971, be amended to read as follows:

60-501. The following words or phrases, when used in sections 60-501 to 60-569, shall, for the purposes of sections 60-501 to 60-569, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) Department means Department of Motor Vehicles;

(2) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages;

(3) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(4) Motor vehicles means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, ~~minibikes or motorcycles propelled by an engine having five or less than five horsepower rated capacity or less than thirty inches from ground seat height;~~ and off-road designed vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles, and snowmobiles;

(5) Nonresident means every person who is not a resident of this state;

(6) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of

this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state;

(7) Operator means every person who is in actual physical control of a motor vehicle;

(8) Owner means a person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of sections 60-501 to 60-569;

(9) Person means every natural person, firm, partnership, association or corporation;

(10) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ten thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of five thousand dollars because of injury to or destruction of property of others in any one accident;

(11) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(12) State means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(13) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Sec. 5. As used in this act, unless the context otherwise requires: A minibike shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen inches, or an engine rated capacity of less than forty-five cubic centimeters displacement or

a seat height less than twenty-five inches from the ground or any other two-wheel motor vehicle primarily designed by the manufacturer thereof for off-road use only. Minibikes, their owners and their operators shall be exempt from the requirements of Chapter 60, articles 1, 3, 4, 5, and 17.

Sec. 6. That section 60-2102, Revised Statutes Supplement, 1971, be amended to read as follows:

60-2102. Minibikes or--other--units--defined--in this act and all off-road vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles and snowmobiles shall be exempt from the provisions of this act during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization.

Sec. 7. That section 60-2103, Revised Statutes Supplement, 1971, be amended to read as follows:

60-2103. All minibikes, minicycles and trail bikes, as defined in this act, and similar two, three, and four-wheeled miniature vehicles offered for sale in this state shall bear the following notice to the customer and user: This vehicle as manufactured or sold is for off-road use only.

Sec. 8. It shall be unlawful for any person to operate a minibike on any state road or highway except as permitted pursuant to section 10 of this act. Any person who violates this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Sec. 9. That section 60-2105, Revised Statutes Supplement, 1971, be amended to read as follows:

60-2105. It is the declared purpose of this act to remove from street use and operation minibikes, minicycles and trail bikes as defined in this act, and similar two, three, or four-wheeled miniature vehicles whose visibility, power and equipment are inadequate for mixing with normal vehicular traffic upon streets and highways, and--to--exempt--such--vehicles--from--motor vehicular regulations.

Sec. 10. Any department, board or commission of the State of Nebraska with jurisdiction over state parks,

state recreation areas and state wayside areas as defined in section 81-815.22, wherein motor vehicles of any type are permitted may enact rules and regulations permitting and controlling the operation of minibikes and designating the place, time and manner of such operation in the public recreation area under its control: Provided, in designating the manner of such operation within a specific location and during a specific time, the department, board, or commission may establish speed limits, restrictions on the age of the operator, noise emission levels, number of minibikes permitted to be operated within a specific area at the same time, and those regulations governing the use of public roads set forth in Chapter 39, article 7, not inconsistent with this act. Such department, board or commission may further authorize the supervising official of any area under its ownership or control to prohibit operation of any minibike in emergency situations by personal or posted notice. Any person operating a minibike in a place or at a time or in a manner not permitted by the department, board or commission having control over the area shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Any political subdivision of the State of Nebraska with jurisdiction over public alleys, streets or highways may enact rules, regulations, ordinances or resolutions in conformity with this act.

Sec. 11. That original sections 39-741, 60-301, 60-401, 60-501, 60-2102, 60-2103, and 60-2105, Revised Statutes Supplement, 1971, and also section 60-2101, Revised Statutes Supplement, 1971, are repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.